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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/213,131	12/15/1998	ERIC C. ANDERSON	736CPI26C	7384
29141	7590	01/26/2004		
SAWYER LAW GROUP LLP P O BOX 51418 PALO ALTO, CA 94303			EXAMINER GENCO, BRIAN C	
			ART UNIT 2615	PAPER NUMBER 18
DATE MAILED: 01/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/213,131

Applicant(s)

ANDERSON, ERIC C.

Examiner

Brian C Genco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 7-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefore ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 7-22 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 of prior U.S. Patent No. 5,973,734 to Anderson. This is a double patenting rejection.

Note in claims 7 and 15 Applicant recites "cropping the image if the aspect ratio does not match the predetermined aspect ratio, thereby providing a cropped image; and providing the cropped image to a display," as recited in claim 7 and similarly in claim 15. Note that in patent no. 5,923,734 the Applicants claimed "image" is a scrennail image, wherein "cropping the scrennail image if the aspect ratio does not match the predetermined aspect ratio (column 13, lines 61-62)," as recited in claims 1 and 6, wherein this process of cropping the scrennail provides a cropped scrennail image wherein claim 1 of patent no. 5,973,734 discloses "providing the scrennail image to a display (column 13, line 63)," as recited in claim 1.

Claims 8-11 are disclosed in claims 2-5 respectively of patent no. 5,973,734; claims 12-14 are disclosed in claim 1 of patent no. 5,973,734; claims 16-19 are disclosed in claims 7-10 respectively of patent no. 5,973,734; and claims 20-22 are disclosed in claim 6 of patent no. 5,973,734.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-22 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 6,441,854 B2 to Fellegara et al).

In regards to claim 7 Fellegara et al, herein Fellegara, discloses in Figs. 12 and 13A-D, a camera which determines “if the aspect ratio of the image matches a predetermined aspect ratio,” wherein, “In the film image capture mode, where the digital image will only be utilized for display on the main screen display unit 36 ... a film mode image of a lower resolution is prepared by electronically cropping and interpolating the full resolution digital image to respectively correspond to the resolution of the main screen display unit 36 and to the aspect ratio of the photographic film images, and is stored in the base camera memory 126 (column 11, lines 24-32, Fellegara).” Fellegara also discloses the ability to change the aspect ratio to any given pre-stored aspect ratio as shown in Figs. 11, 12, and 13A-D (column 15, line 50 – column 16, line 13), wherein a user determines if the aspect ratio is in a desired predetermined aspect ratio and further crops the full available digital image to provide the image of correct predetermined aspect ratio. Note that Fellegara discloses compressing the digital images prior to storing them, whereby when displaying images that were previously stored it is inherent that the camera would decompress the previously compressed digital images (compressing the images,

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column 13, lines 43-45; reviewing the images, column 14, line 61 – column 14, line 19;

Fellegara).

In regards to claim 8 see examiners notes on the rejection of claim 7. Note Figs. 13A-D, wherein Fig. 13A is the captured base image and Figs. 13B-D show how the image is resized.

In regards to claim 9 see examiners notes on the rejection of claim 7. Note column 11, lines 24-32 of Fellegara.

In regards to claim 10 Fellegara discloses his/her camera can be a digital camera, a hybrid camera, or a film camera (column 4, lines 53-59, Fellegara).

In regards to claim 11 Fellegara discloses an LCD screen as shown in Fig. 5.

In regards to claim 12 see Figs. 11, 12, 14, and 16.

In regards to claim 13 see examiners notes on the rejection of claim 12. Fellegara discloses, “If desired, the icon group 200 can be generated as transparent icons that can be laid over the displayed digital image, so that the size of the image display area 202 can be expanded and the camera operator can see the displayed digital image through the display icons (column 15, lines 3-7, Fellegara),” or “updating the scrennail image with a higher resolution image.”

In regards to claim 14 see examiners notes on the rejection of claims 7-13. Note that as discussed in the rejection of claim 13 the icon group 200 is overlaid the “higher resolution image” wherein the steps of “determining if the higher resolution image requires cropping” and “cropping the higher resolution image” are preformed in an identical manner as preformed with the scrennail (see rejection of claim 7). Namely when the “higher resolution image” is displayed on the main display screen, since the icon group 200 is overlaid thereupon the “higher resolution image” all of the options available to the user when viewing the scrennail are

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available when viewing the "higher resolution image." Namely the user has the same options of changing the aspect ratio as discussed in the rejection of claim 7.

In regards to claims 15-22 see the rejection of the method claims 7-14.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(USPN 5,619,738 to Petruchik et al)

(USPN 5,448,372 to Axman et al)

(USPN 5,530,235 to Stefik et al)

(USPN 6,052,692 to Anderson et al)

(USPN 5,993,137 to Anderson)

(USPN 6,215,523 B1 to Anderson)

(USPN 6,020,920 to Anderson)

(USPN 5,402,171 to Tagami et al)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached at 703-305-7881. The examiner can normally be reached on Monday thru Friday 8:00am to 4:00 pm.

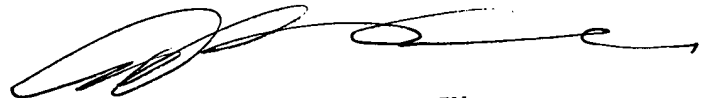
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center 2600 customer service office whose telephone number is 703-306-0377.

Brian C Genco
Examiner
Art Unit 2615

November 25, 2002



**ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**